* IN THE HIGH COURT OF DELHI AT NEW DELHI

\+ **Crl. M.C. No. 8325/2006**

% Date of Decision: 26th November, 2007

\# **Dr. K.K. Aggarwal** .....Petitioner

! Through Mr. Sanjay Abbot, Advocate

versus

$ **State of NCT of Delhi & Anr.** ..... Respondents

^ Through Mr. M.N. Dudeja, APP for the State.

Mr. S.C. Jain, Advocate for respondent no. 2.

CORAM:

* **HON'BLE MR. JUSTICE P.K.BHASIN**

1. Whether Reporters of local papers may be allowed to see the Judgment?(No)
2. To be referred to the Reporter or not?(No)
3. Whether the judgment should be reported in the digest?(No)

JUDGMENT

P.K.BHASIN, J:

This petition is filed by the petitioner under Section 482 of the Code of Criminal Procedure ('Cr.P.C.' in short) for quashing of complaint dated 02.02.1999 under Sections 420/120-B/506 IPC entitled 'Atul Kumar Jain Vs. Dr. K.K. Aggarwal And Ors.' pending trial in the Court of Metropolitan Magistrate, Delhi and also the order dated 14-9-2006 passed by him in that complaint whereby the petitioner was summoned as an accused for the commission of offences punishable under Sections 420/120B IPC.

2. The facts of the case are that the petitioner, who is a doctor by profession, is working as Head of Department of Cardiology at Moolchand Hospital, New Delhi and is also the President of the Heart Care Foundation of India. It is alleged in the petition that in November 1998, the Heart Care Foundation sought to organize an event entitled 'Perfect Health Mela, 98' at the Archery Grounds, Jawaharlal Nehru Stadium, New Delhi and was scheduled to be held from 18-12-98 to 27-12-98. At the time of the event since the petitioner was the Vice Chairman of the Heart Care Foundation of India and Secretary for the Organizing Committee of the Mela, he, as a part of his duties, issued letter dated 03-11-1998 duly appointing M/s. PIXL Communications Pvt. Ltd., New Delhi as one of the official event manager and marketing agency for the 'Perfect Health Mela,98' and duly authorizing it to source sponsorship and market space for the 'Perfect Health Mela,98' for which purpose 100 stalls were given to it against a consideration of rupees twenty five lacs but

the Company only paid a sum of Rs. 2,80,000/- to the Heart Care Foundation. It is further alleged in the petition that after the completion of the 'Perfect Health Mela,98' in December, 2006 the petitioner received summons to appear in the Court of learned Metropolitan Magistrate as an accused since the complainant had allegedly paid Rs. 23,000/- by cheque to the aforesaid M/s. PIXL Communications Pvt. Ltd. towards the allotment of a stall for the duration of the 'Perfect Health Mela, 98' and the petitioner along with that Company failed to provide a stall to the complainant for the duration of the 'Perfect Health Mela, 98'.

3. After recording the complainant's evidence the complaint was dismissed on 01-04-1999 but the complainant filed a revision petition against that order in the Court of learned Additional Sessions Judge, Delhi who vide his order dated 24-07-2000 remanded back the matter to the Court of Chief Metropolitan Magistrate, who passed the impugned order dated 14-9-2006 summoning the present petitioner for the offences under Sections 420/120-B IPC. Feeling aggrieved by that order the petitioner filed this petition.

4. During the pendency of this petition the petitioner resolved the dispute and arrived at an amicable settlement with the complainant and after having reached a settlement both of them moved a joint application dated 31.08.2007 before this

Court for quashing the complaint in view of the settlement. Learned counsel for the petitioner submitted that since compromise has been arrived at between the parties no useful purpose would be served if the trial continues.

5. On 27.09.2007 learned counsel for the complainant also` affirmed that the dispute had been amicably resolved and the complainant has received back the amount which the accused persons had taken from him by misrepresentation and that the complainant had no objection if the complaint and the criminal proceedings arising therefrom are quashed.

6. Learned APP for the State, however, opposed quashing of said complaint on the ground that the offence under Section 120 B is not compoundable under Section 320 Cr.P.C. and so if these offences are permitted to be compounded that would amount to bye-passing the provisions of Section 320 Cr.P.C. which should not be done by this Court by exercising the inherent jurisdiction vested in it under Section 482 Cr.P.C.

7. It is now well settled by many judgments of the Hon'ble Supreme Court that FIRs even in respect of those offences which are not compoundable under section 320 Cr.P.C. can be quashed as also the criminal proceedings emanating therefrom

if it is felt while dealing with a quashing petition under section 482 Cr.P.C. that it would secure the ends of justice if the FIR and criminal proceedings arising therefrom are quashed and continuation of the criminal proceedings would amount to abuse of the process of law. Reference in this regard can be made in one of the judgments of Hon'ble Supreme Court which is reported in "***B.S.Joshi & Ors. Vs. State of Haryana & Anr.", AIR 2003 SC 1386*** wherein it has been so held by the Hon'ble Supreme Court. In the present case, the complaint against the accused came to be made primarily because of non refund of the money which was allegedly taken by the petitioners for allotment of the stall to the complainant in the Mela after their refusal to allot a stall in the Mela to him. Since the parties have compromised the dispute, it would secure the ends of justice if the on going proceedings in the complaint case are quashed. Continuation thereof would amount to abuse of process of law.

8. In view of the foregoing, I allow this petition and consequently the proceedings in the complaint case titled as 'Atul Kumar Jain v. Dr. K.K. Aggarwal & Ors.' going on in the Court of Metropolitan Magistrate, Delhi for the offences under Sections 420/120B I.P.C. are quashed.

P.K.BHASIN,J

November 26, 2007

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